U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

MAR 0 3 2005

FILE: WAC 04 148 50297 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a skilled nursing facility. In order to employ the beneficiary as a systems specialist, the petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition on two independent grounds, namely, that the petitioner had failed to establish that (1) the proffered position meets the definition of a specialty occupation at 8 C.F.R. § 214.2(h)(4)(iii)(A), and (2) the beneficiary is qualified to serve in a specialty occupation in accordance with 8 C.F.R. § 214.2(h)(4)(iii)(C).

On November 12, 2004, counsel filed a Form I-290B (Notice of Appeal) that indicated that she would file a brief or evidence within 30 days. The only information that the I-290B presented about the basis of the appeal is this generalized assertion at part 3 of the form:

> The BCIS erred in deciding that the position of System Specialist does not qualify as a specialty occupation.

On December 9, 2004, counsel filed a letter with a single-page enclosure the letter described as "the employer's letter in support of the appeal." The enclosure consists of three columns that separately describe duties for positions entitled "Systems Specialist," "System Administrator," and "General Maintenance Worker." Counsel's letter itself contains no comments about the basis of the appeal.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

The Form I-290B, the counsel's letter, and the enclosure to counsel's letter fail to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor counsel presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.